

Notice of Allowability

Application No.

09/354,608

Examiner

Kambiz Abdi

Applicant(s)

YAMANAKA, YASUHIRO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1 November 2004.
2. ☒ The allowed claim(s) is/are 1-8,28-31,33-36,38-43,45-48 and 50-65.
3. ☒ The drawings filed on 09 October 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

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DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this section can be found in the prior office action. Prior office actions are incorporated in this office action by reference. Applicant has filed an Amendment After Final Rejection on 1 November 2004, which has been entered as well as the current examiner's amendments.

- Claims 9-27, 32, 37, 44, 49, and 63 have been canceled.
- Claims 1, 2, 28, 33, 34, 40, 45, 46, 55, 56, 57, and 64 have been amended.
- Claims 1-8, 28-31, 33-36, 38-43, 45-48 and 50-65 have been allowed.

Examiner's Amendment

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in an interview with attorney Arnold B. Dompieri conducted via telephone on 9 December 2004.

The examiner under agreement by the attorney representing the applicant has amended independent claims 1, 28, 40, 55, and 64 in addition to dependent claims 2, 33, 34, 45, 46, 56, and 57.

The claims in the application has been amended as follow:

1. (currently amended) A copyright management apparatus for managing copyrights for copyrighted works in a system comprising a distribution facility and a receiving facility, comprising:
 - a first memory associated with the distribution facility for storing copyright information related to the copyrighted works, said copyright information including the identities of the copyrighted works, the identities of the owners of the copyrights for the copyrighted works, data related to the costs for downloading the copyrighted works at said receiving facility and program identification information comprising the identity of a broadcasted television program related to the copyright works;
 - distributing means associated with the distribution facility for broadcasting the copyrighted works through a given transmission path to the receiving facility, the copyrighted works comprising musical pieces and being distributed to the receiving facility as first digital data packets multiplexed with second digital data packets comprising the broadcasted television program, the receiving facility comprising a packet selector in communication with a second memory and a monitor, the packet

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selector receiving the first and second digital data packets and selecting the first digital data packets for transmission to the second memory for storage and selecting the second digital data packets for transmission to the monitor for displaying the television program;

receiving means associated with the distribution facility for receiving from the receiving facility a purchasing record identifying selected copyrighted works distributed from the distribution facility and selected by the receiving facility for downloading at the receiving facility and storing in the second memory, said purchasing record being stored in a third memory at the time of said downloading and transmitted to said receiving means after said downloading, said third memory being associated with said receiving facility and also storing, in advance of said selecting of said selected copyrighted works by said receiving facility, authorization data for authorizing the downloading of said selected copyright works; and

copyright management means associated with the distribution facility for performing copyright management based upon said purchasing record and the copyright information, said copyright management including calculating a copyright payment due each owner of the copyrights for the selected copyrighted works.

2. (currently amended) A copyright management apparatus according to Claim 1, wherein said program identification information further includes a broadcasting time for said broadcasted television program and the identities of channels on which said broadcasted copyrighted works are transmitted, and wherein said copyright management means also performs said copyright management based upon said program identification information.

3. (previously presented) A copyright management apparatus according to Claim 2, wherein said copyright management means searches the program identification information to obtain the identities of said broadcasted copyrighted works, refers to the copyright information using said identities to obtain the identities of the owners of the copyrights for the selected copyrighted works and data related to the costs for downloading the selected copyrighted works at said receiving facility and calculates a copyright fee to be paid to said owners.

4. (previously presented) A copyright management apparatus according to Claim 1, wherein the purchasing record is sent from the receiving facility through a predetermined customer management center.

5. (previously presented) A copyright management apparatus according to Claim 4, wherein the customer management center calculates a fee to be paid by a customer at the receiving facility on the basis of said purchasing record sent from the receiving facility.

6. (previously presented) A copyright management apparatus according to Claim 1, wherein said receiving means also receives customer information related to a customer associated with the receiving facility.

7. (previously presented) A copyright management apparatus according to Claim 1, wherein the first and second digital data packets comprise MPEG data.

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8. (original) A copyright management apparatus according to Claim 1, wherein the given transmission path is a spatial transmission path in digital satellite broadcasting.

9-27. (canceled)

28. (currently amended) A system for distributing copyrighted works and managing payments owed as a result of the distributing to the owners of the copyrights in the copyrighted works, said system comprising:

a server located at a distribution facility adapted to distribute said copyrighted works through a first transmission system, the copyrighted works comprising musical pieces and being distributed as first digital data packets multiplexed with a broadcasted television program related to the copyrighted works and comprising second digital data packets;

a receiving facility in communication with the transmission system adapted to receive from the server the first and second digital data packets, the receiving facility comprising a packet selector in communication with a first memory and a monitor, the packet selector receiving the first and second digital data packets and selecting the first digital data packets for transmission to the first memory for storage and selecting the second digital data packets for transmission to the monitor for displaying the television program;

a communication interface at said distribution facility adapted to receive through a second transmission system a purchasing record identifying selected copyrighted works distributed from the distribution facility and selected by the receiving facility for downloading at the receiving facility and storing in the first memory, said purchasing record being stored in a second memory at the time of said downloading and transmitted to said communication interface after said downloading, said second memory being associated with said receiving facility and also storing, in advance of said selecting of said selected copyrighted works by said receiving facility, authorization data for authorizing the downloading of said selected copyrighted works;

a third memory associated with said server adapted to store copyright information corresponding to each of said distributed copyrighted works, said copyright information providing the identity of the distributed copyrighted works, the identity of the owners of the copyrights for the distributed copyrighted works, data relating to the costs for downloading the distributed copyrighted works by said receiving facility and the identity of the broadcasted television program;

a processor associated with said server, in communication with said third memory, adapted to calculate, based upon said purchasing record and said copyright information, a copyright payment due each owner of the copyrights for the selected copyrighted works.

29. (previously presented) A system as in claim 28, wherein said first transmission system and said second transmission system comprise the same transmission system.

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30. (previously presented) A system as in claim 28, wherein said first transmission system comprises a satellite broadcasting system and said second transmission system comprises the public switched telephone network.

31. (previously presented) A system as in claim 28, wherein said copyright information further provides a copyright fee ratio.

32. (canceled)

33. (currently amended) A system as in claim 28, further comprising a server adapted to serve graphical data through said first transmission system to said receiving facility, said graphical data being displayed by said receiving facility on said monitor during said television program for use in selecting said selected copyrighted works.

34. (currently amended) A system as in claim 28, wherein said third memory is further adapted to store additional information corresponding to said television program, said additional information providing the identity of transmission channels transmitting said distributed copyrighted works to said receiving facility.

35. (previously presented) A system as in claim 34, wherein said processor is adapted to use said additional information to calculate said payment.

36. (previously presented) A system as in claim 28, wherein said second transmission system comprises a customer management center for receiving data from said receiving facility corresponding to the purchase of said selected copyrighted works and for transmitting said purchasing record to said communication interface.

37. (canceled)

38. (previously presented) A system as in claim 28, wherein said first and second digital data packets comprise MPEG data.

39. (previously presented) A system as in claim 28, wherein said processor is further adapted to store data identifying said copyright payment in said third memory.

40. (currently amended) A method for distributing copyrighted works and managing payments owed as a result of the distributing to the owners of the copyrights in the copyrighted works, said method comprising:

distributing from a server located at a distribution facility said copyrighted works through a first transmission system, the copyrighted works comprising musical pieces and being distributed as first digital data packets multiplexed with a broadcasted television program related to the copyrighted works and comprising second digital data packets;

receiving at a receiving facility in communication with the transmission system the first and second digital data packets distributed from the server, the receiving facility comprising a packet selector in communication with a first memory and a monitor, selecting with the packet selector the first

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digital data packets for transmission to the first memory for storage and the second digital data packets for transmission to the monitor for displaying the television program;

receiving at a communication interface at said distribution facility through a second transmission system a purchasing record identifying selected copyrighted works distributed from the distribution facility and selected by the receiving facility for downloading at the receiving facility and storing in the first memory, said purchasing record being stored in a second memory at the time of said downloading and transmitted to said communication interface after said downloading, said second memory being associated with said receiving facility and also storing, in advance of said selecting of said selected copyrighted works by said receiving facility, authorization data for authorizing the downloading of said selected copyrighted works;

storing in a third memory associated with said server copyright information corresponding to each of said distributed copyrighted works, said information providing the identity of the distributed copyrighted works, the identity of the owners of the copyrights for the distributed copyrighted works, data relating to the costs for downloading the copyrighted works by said receiving facility and the identity of the broadcasted television program;

calculating with a processor associated with said server, in communication with said third memory, based upon said purchasing record and said copyright information, a copyright payment due each owner of the copyrights for the selected copyrighted works.

41. (previously presented) A method as in claim 40, wherein said first transmission system and said second transmission system comprise the same transmission system.

42. (previously presented) A method as in claim 40, wherein said first transmission system comprises a satellite broadcasting system and said second transmission system comprises the public switched telephone network.

43. (previously presented) A method as in claim 40, wherein said copyright information further provides a copyright fee ratio.

44. (canceled)

45. (currently amended) A method as in claim 40, further comprising serving from a server graphical data through said first transmission system to said receiving facility, said graphical data being displayed by said receiving facility on said monitor during said television program for use in selecting said selected copyrighted works.

46. (currently amended) A method as in claim 40, further comprising storing in said third memory additional information corresponding to said television program, said additional information providing the identity of transmission channels transmitting said distributed copyrighted works to said receiving facility.

47. (previously presented) A method as in claim 46, further comprising calculating with said processor said payment using said additional information.

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48. (previously presented) A method as in claim 40, wherein said second transmission system comprises a customer management center for receiving data from said receiving facility corresponding to the purchase of said selected copyrighted works and further comprising transmitting said purchasing record to said communication interface from said customer management center.

49. (canceled)

50. (previously presented) A method as in claim 40, wherein said first and second digital data packets comprise MPEG data.

51. (previously presented) A method as in claim 40, further comprising storing data identifying said copyright payment in said third memory.

52. (previously presented) A copyright management apparatus as in claim 1, wherein said third memory is a non-volatile, removable memory card.

53. (previously presented) A system as in claim 28, wherein said second memory is a non-volatile, removable memory card.

54. (previously presented) A method as in claim 40, wherein said second memory is a non-volatile, removable memory card.

55. (currently amended) A method for managing copyrights for copyrighted works in a system comprising a distribution facility and a receiving facility, comprising:

storing in a first memory associated with the distribution facility copyright information related to the copyrighted works, said copyright information including the identities of the copyrighted works, the identities of the owners of the copyrights for the copyrighted works, data related to the costs for downloading the copyrighted works at said receiving facility and program identification information comprising the identity of a broadcasted television program related to the copyright works;

distributing from the distribution facility the copyrighted works through a given transmission path to the receiving facility, the copyrighted works comprising musical pieces and being broadcasted as first digital data packets multiplexed with second digital data packets comprising the broadcasted television program;

receiving at the receiving facility over the transmission path the first and second digital data packets distributed from the distribution facility, the receiving facility comprising a packet selector in communication with a second memory and a monitor, selecting with the packet selector the first digital data packets for transmission to the second memory for storage and the second digital data packets for transmission to the monitor for displaying the television program;

receiving at the distribution facility a purchasing record identifying selected copyrighted works distributed from the distribution facility and selected by the receiving facility for downloading at the receiving facility and storing in said second memory, said purchasing record being stored in a third memory at the time of said downloading and transmitted to said distribution facility after said downloading, said third memory being associated with said receiving facility and also storing, in advance

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of said selecting of said selected copyrighted works by said receiving facility, authorization data for authorizing the downloading of said selected copyright works; and

performing copyright management based upon said purchasing record and the copyright information, said copyright management including calculating a copyright payment due each owner of the copyrights for the selected copyrighted works.

56. (currently amended) A method according to Claim 55, wherein said program identification information further includes a broadcasting time for said television program and the identities of channels on which said broadcasted copyrighted works are transmitted, and further comprising performing said copyright management based upon said program identification information.

57. (currently amended) A method according to Claim 56, further comprising searching the program identification information to obtain the identities of said broadcasted copyrighted works, and referring to the copyright information using said identities to obtain the identities of the owners of the copyrights for the selected copyrighted works and data related to the costs for downloading the selected copyrighted works at said receiving facility.

58. (previously presented) A method according to Claim 55, further comprising sending the purchasing record from the receiving facility through a predetermined customer management center.

59. (previously presented) A method according to Claim 58, further comprising calculating at the customer management center a fee to be paid by a customer at the receiving facility on the basis of said purchasing record sent from the receiving facility.

60. (previously presented) A method according to Claim 55, further comprising receiving at the distribution facility customer information related to a customer associated with the receiving facility.

61. (previously presented) A method according to Claim 55, wherein said first and second digital data packets comprise MPEG data.

62. (previously presented) A method according to Claim 55, wherein the given transmission path is a spatial transmission path in digital satellite broadcasting.

63. (canceled)

64. (currently amended) A copyright management system for managing copyrights for copyrighted works comprising:

a distribution facility, said distribution facility comprising,

a first memory for storing copyright information related to the copyrighted works, said copyright information including the identities of the copyrighted works, the identities of the owners of the copyrights for the copyrighted works, data related to the costs for downloading the copyrighted works at a receiving facility and the identity of a broadcasted television program related to the copyrighted works,

distributing means for distributing the copyrighted works through a given transmission path to said receiving facility, the copyrighted works comprising musical pieces and being

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distributed as first digital data packets multiplexed with second digital data packets comprising the broadcasted television program,

a communication interface for receiving from the receiving facility a purchasing record identifying selected copyrighted works distributed from the distribution facility and selected by the receiving facility for downloading at the receiving facility and storing in a second memory, said purchasing record being stored in a third memory at the time of said downloading and transmitted to said communication interface after said downloading, said third memory also storing, in advance of said selecting of said selected copyrighted works by said receiving facility, authorization data for authorizing the downloading of said selected copyright works, and

copyright management means for performing copyright management based upon said purchasing record and the copyright information, said copyright management including calculating a copyright payment due each owner of the copyrights for the selected copyrighted works,

and said receiving facility comprising,

the second and third memories,

a communication interface for receiving the first and second digital data packets distributed from the distribution facility and the authorization data,

selecting means for selecting the selected copyrighted works,

a packet selector in communication with the second memory and a monitor, the packet selector receiving the first and second digital data packets and selecting the first digital data packets for transmission to the second memory for storage and selecting the second digital data packets for transmission to the monitor for displaying the television program, and

a transmitter for transmitting the purchasing record to the distribution facility.

65. (previously presented) A system as in claim 64, wherein the third memory is a non-volatile, removable memory card.

Allowable Subject Matter

3. Claims 1-8,28-31,33-36,38-43,45-48 and 50-65 are allowed over the prior art of record.

4. The following is an examiner's statement of reason for allowance:

The closest prior art of record is U.S. Patent Application Publication No. 2001/0032187 A1 to Francois-Xavier Nuttall and U.S. Patent Application Publication No. 2002/0029380 to Kenji Matsumoto. Nuttall teaches a system and method for monitoring and tracking of distributed electronic data within network and collection revenue based on the usage rights granted to such user nodes. Matsumoto teaches a system and method of an electronic purse usage based on an IC card. Matsumoto teaches this

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method of purchasing in the TV and cable-programming environment. The general states of all of the mentioned prior arts of records disclose method and system to track and bill usage of digital content.

The closest foreign prior art of record is European Patent No. 1467566 A2 to Juliet Hibbert et al. discloses a system and method of broadcasting of electronic content and simultaneous broadcast of related material and control of the recordation and reuse of the simultaneous broadcasted copyrighted material as well as ordering of services and products related to the music programs. The closest foreign prior art of record is lacking the specifics of the claimed invention as it has been discussed in independent claims 1, 28, 40, 55, and 64 as will be discussed below.

The NPL cited by the examiner, "Audio multiplex and character multiplex technology. I", AEU Journal 111, IEEE, by S. Izumikawa teaches the related capabilities of multiplexing of data within broadcasting systems. The closest NPL of record is lacking the specifics of the claimed invention as it has been discussed in independent claims 1, 28, 40, 55, and 64 as will be discussed below.

In regards to independent claims 1, 28, 40, 55, and 64, the closest prior arts of record when taken either individually or in combination with other prior art of record fails to teach or suggest the step of;

program identification information comprising the identity of a broadcasted television program related to the copyright works;

the copyrighted works comprising musical pieces and being distributed to the receiving facility as first digital data packets multiplexed with second digital data packets comprising the broadcasted television program;

receiving means associated with the distribution facility for receiving from the receiving facility a purchasing record identifying selected copyrighted works distributed from the distribution facility and selected by the receiving facility for downloading at the receiving facility and storing in the second memory, said purchasing record being stored in a third memory at the time of said downloading and transmitted to said receiving means after said downloading, said third memory being associated with said receiving facility and also storing, in advance of said selecting of said selected copyrighted works by said receiving facility, authorization data for authorizing the downloading of said selected copyright works;

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It is clearly acknowledged by the independent claims that the downloaded copyrighted material is music, which is directly related to the television program that is being viewed as well as that the copyrighted material is based on being simultaneously received by the head end of the unit. This copyrighted material is stored in a separate memory than other information downloaded or received from the broadcast, so there will be a control over the copyrighted music.

Claims 2-8 are dependent upon independent claim 1 and claims 29-31, 33-36, and 38-39 are dependent upon claim 28, claims 41-43, 45-48, and 50-54 are dependent upon independent claim 40, claims 56-62 are dependent upon independent claim 55, and claim 65 is dependent upon independent claim 64, thus they all have the limitations of independent claims 1, 28, 40, 55, and 64, therefore, they are allowable for that same reason stated above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kambiz Abdi whose telephone number is (703) 305-3364. The examiner can normally be reached on 9 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P Trammell can be reached on (703) 305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks
Washington, D.C. 20231**

or faxed to:

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(703) 872-9306 [Official communications; including After Final communications labeled "Box AF"]

(703) 746-7749 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

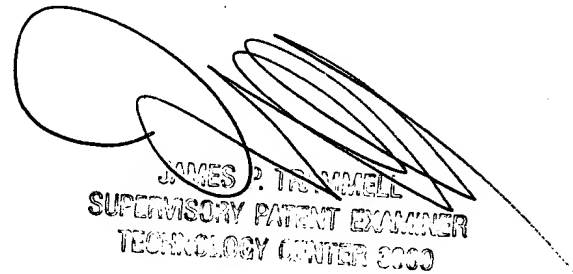
Hand delivered responses should be brought to:

**Crystal Park 5, 2451 Crystal Drive
7th floor receptionist, Arlington, VA, 22202**

Kambiz Abdi

Examiner

December 13, 2004



**JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
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